

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

ORDER

Criminal File No. 04-390 (MJD/JSM)

(1) WILLIAM D. PIERCE and

(2) SHIRLEY B. PIERCE,

Defendants.

John Marti and Ann Anaya, Assistant United States Attorneys, Counsel for Plaintiff.

Deborah Ellis, Ellis Law Office, Counsel for Defendant William Pierce.

Kate Menendez, Federal Public Defender, Counsel for Defendant Shirley Pierce.

As ordered during trial on September 23, 2005, and affirmed on September 26, Defendants' objection to the Government's attempt to cross-examine defense character and reputation witnesses regarding their familiarity with the factual allegations underlying the indictment in this case is sustained. Questions regarding "whether these witnesses possessed familiarity with the facts underlying the present charges . . . exceed the bounds of propriety, premised, as they are, on a presumption of guilt. These questions permit[] the Government to improperly

bolster the weight of its own evidence by implying that the witnesses might have answered differently had they heard the same evidence as the jury.” United States v. Barta, 888 F.2d 1220, 1225 (8th Cir. 1989).

IT IS HEREBY ORDERED that:

Defendants’ objection to the Government’s attempt to cross-examine defense character and reputation witnesses regarding their familiarity with the factual allegations underlying the indictment in this case is sustained.

Dated: September 26, 2005

s/ Michael J. Davis
Judge Michael J. Davis
United States District Court